

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CLOANTO CORPORATION, a Nevada
corporation; AMIGA, INC., a Delaware
corporation; ITEC, LLC, a New York limited
liability company; AMINO DEVELOPMENT
CORPORATION, a Washington corporation

Plaintiffs,

vs.

HYPERION ENTERTAINMENT C.V.B.A.,

Defendant.

HYPERION ENTERTAINMENT C.V.B.A.,

Counterclaim
Plaintiff,

vs.

CLOANTO CORPORATION, a Nevada
corporation; AMIGA, INC., a Delaware
corporation; ITEC, LLC, a New York limited
liability company; AMINO DEVELOPMENT
CORPORATION, a Washington corporation

Counter-Defendants.

No. 2:18-cv-00381-RSM
(consolidated with 2:18-cv-0535)

STIPULATED MOTION TO EXTEND
TRIAL DATE AND RELATED
DEADLINES

STIPULATED MOTION TO EXTEND TRIAL DATE AND
RELATED DEADLINES
2:18-cv-00381-RSM

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1 Plaintiffs/Counter-Defendants Cloanto Corporation, Amiga, Inc., Amino Development
2 Corporation, and ITEC, LLC (“Plaintiffs”) together with Defendant/Counterclaim Plaintiff
3 Hyperion Entertainment C.V.B.A. (“Defendant”) (collectively, the “Parties”)), pursuant to LCR
4 7(d)(1) and LCR 10(g), jointly move the Court for an order extending, by approximately four
5 months, the dates in the Court’s Order Setting Trial Date and Related Dates (Dkt. #32).
6 Additional time is needed to complete discovery given the procedural posture of this consolidated
7 action, the complex nature of the pending claims and counterclaims, the complexity and difficulty
8 in working with international parties, a pending procedural action in the European Union
9 involving Hyperion’s corporate status, and the effect of the Court’s recent decisions (Dkt. #s 68-
10 69) on Defendant’s Motion to Dismiss in Part Plaintiffs’ Second Amended Complaint (Dkt. # 52)
11 and Plaintiffs’ Motion to Extend Deadlines in Scheduling Order to Permit Plaintiffs to File a Third
12 Amended Complaint (Dkt. #s 56-57).

13 On or around December 29, 2018, Plaintiffs filed a Second Amended Complaint to
14 reorganize the Parties’ positions to reflect Cloanto Corporation, Amiga, Inc., Itec, LLC, and
15 Amino Development Corporation as Plaintiffs, and Hyperion Entertainment CVBA as Defendant.
16 Dkt. #46. Thereafter, Defendant moved to dismiss three of Plaintiffs’ claims on various grounds.
17 Dkt. #52. On May 16, 2019, the Court granted in part and denied in part Defendant’s Motion to
18 Dismiss. Dkt. #69. Accordingly, on May 30, 2019, Defendant timely filed its Answer to
19 Plaintiffs’ Second Amended Complaint and Counterclaims. Dkt. # 70. Plaintiffs’ reply to
20 Defendant’s counterclaims is due on June 20, 2019. *See* Fed. R. Civ. P. 12(a)(1)(B).

21 The Court’s Order Setting Trial Date and Related Dates (Dkt. #32) provides deadlines for
22 the Parties to disclose expert testimony, file discovery motions, complete discovery, file
23 dispositive motions, and complete other pretrial deadlines. However, given the effect of the
24 Court’s recent orders (Dkt. #s 68-69) and the resulting procedural posture of this consolidated
25 action, the Parties respectfully request the Court reschedule certain remaining discovery and
26 pretrial deadlines. Further, Hyperion is involved in a legal proceeding in the European Union that
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1 is expected to conclude toward the end of June 2019. The proceeding centers on whether
2 Hyperion may continue as a legal entity in Belgium.

3 The Parties jointly submit there is good cause to extend the deadlines recited below to
4 allow the Parties to proceed with and complete discovery following Plaintiffs' reply to
5 Defendant's counterclaims on June 20, 2019. The Parties have been and continue to engage in
6 discovery in good faith. The Parties have exchanged documents and disclosures of witnesses. The
7 Parties have also engaged in written fact discovery and anticipate scheduling depositions of
8 certain Fed. R. Civ. P. 30(b)(6) and percipient witnesses during August 2019 in Seattle—dates
9 that the Parties have been actively working towards for several months. The Parties also
10 anticipate participating in a settlement conference in August, following those depositions.

11 Currently, the discovery completion deadline is August 12, 2019. A short four-month
12 extension of the remaining deadlines is necessary to complete these depositions and to allow the
13 Parties to engage in any additional third party and fact discovery thereafter.

14 On February 28, 2019, Plaintiffs sought to modify the Court's Order to permit Plaintiffs to
15 file a third amended complaint. Dkt. #56. The Court denied Plaintiffs' Motion. Dkt. #65. The
16 Parties' current request does not include a request for leave to add new parties, to amend claims,
17 or to extend expert disclosures. Instead, the Parties jointly respectfully request the Court extend
18 the following:

| <u>Deadline/Event</u> | <u>Current</u> | <u>Proposed</u> |
|--|----------------|-----------------|
| 21 Disclosure for filing motions related 22 to discovery. Any such motions shall be 23 noted for consideration pursuant to LCR 7(d)(3) | 07/12/2019 | 11/08/2019 |
| 24 Discovery completed by | 08/12/2019 | 12/10/2019 |
| 25 All dispositive motions must be filed 26 by and noted on the motion calendar no later 27 than the fourth Friday thereafter (see LCR 7(d)) | 09/10/2019 | 01/08/2020 |

| | | |
|---|------------|------------|
| Mediation per LCR 39.1(c)(3), if requested, held no later than | 10/25/2019 | 02/21/2020 |
| All motions in limine must be filed by and noted on the motion calendar no later than the THIRD Friday thereafter | 11/12/2019 | 03/11/2020 |
| Agreed pretrial order due | 11/27/2019 | 03/26/2020 |
| Pretrial conference to be scheduled by the Court | | |
| Trial brief, proposed voir dire questions, jury instructions, neutral statement of the case, and trial exhibits due | 12/04/2019 | 04/02/2020 |

The Parties' joint request is not sought for purposes of delay. Rather, because of the procedural posture of this consolidated action following the reorientation of the Parties' positions, the complex nature of the claims and counterclaims at issue, and this Court's recent decisions, the Parties believe a four-month extension is necessary to effectively complete remaining discovery and pretrial deadlines.

As such, the Parties respectfully request the Court extend the remaining deadlines in the Court's Order Setting Trial Date and Related Deadlines.

Respectfully submitted this 12th day of June, 2019.

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13 IT IS SO ORDERED. It is further ORDERED that this case be assigned a new trial date of April
14 13, 2020.

15 DATED this 18 day of June, 2019.

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17 RICARDO S. MARTINEZ
18 CHIEF UNITED STATES DISTRICT JUDGE
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